

Application No. 10/766,939
Reply to Office Action dated February 5, 2007

Attorney Docket No. FS-F03228-01

REMARKS

I. Amendment

By the present Amendment, claim 1 is amended by incorporating the subject matter recited in claim 14, and claim 14 is cancelled. Claim 25 is also cancelled. It appears from the previous Office action that the Examiner is suggesting that the claims would be allowable if rewritten so that they are commensurate in scope with the experimental results shown in the previously-filed Declaration. It is respectfully submitted that the amended claims are currently commensurate in scope with the Declaration.

II. Rejections under 35 U.S.C. § 103(a)

Claims 1-7, 9-12, 14, and 21-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Okada, Siga and Toya et al. '419. Claim 13 was rejected over this combination of references and further in view of Toya '126. This rejection was set forth in the previous Office action. In response, a Declaration under 37 C.F.R. 1.132 was submitted. The Examiner argued that the Declaration was not commensurate in scope with the claims. The present amendment makes the claims commensurate in scope with the Declaration, therefore, it is respectfully requested that the Examiner reconsider the rejection in view of the Declaration which clearly demonstrates the unexpected results of the claimed invention.

The compounds of the present invention that are used in the 37 C.F.R. § 1.132 declaration submitted on November 14, 2006, namely the formulas (2), (6), (11), (17), (20), (28), etc., are distinct from the compounds of the Okada patent, namely formulas 2, 6, 17 and 20. Although the formulas (2), (6), (11), (17), (20), (28), etc. of the invention may be encompassed by the disclosure of Okada patent, these compounds are an adsorbable redox compound represented by formula (I) of the amended claim 1 whereas formulas 2, 6, 17 and 20 of Okada are not.

The invention recited in the amended claim 1 is an image forming method comprising thermally developing for 1-12 seconds a photothermographic material comprising a particular adsorbable redox compound represented by formula (I), a

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photosensitive high-iodide silver halide having a silver iodide content of 40 to 100 mol%, a reducing agent represented by formula (R-1), a silver salt of an aliphatic carboxylic acid including a silver behenate, and a polyhalomethane compound represented by formula (H). Unprocessed storability is unexpectedly improved with this image forming method. The unexpectedly superior results are sufficiently proven by the experimental results shown in the 37 C.F.R. § 1.132 declaration submitted on November 14, 2006.

The silver halide emulsions A', 2, 3 and 4 used in the experiments of the 37 C.F.R. § 1.132 declaration have silver iodide contents of 2 mol%, 40 mol%, 90 mol% and 100 mol%, respectively. The silver iodide content of 2 mol% (silver halide emulsion A') is the silver iodide content of the emulsion disclosed in the specific examples of Okada patent, and outside the range of the silver iodide content of 40-100 mol% as recited in amended claim 1. Accordingly, the experimental results shown in the 37 C.F.R. § 1.132 declaration of November 14, 2006 are proper and are commensurate in scope with the claimed invention.

As clearly shown in the 37 C.F.R. § 1.132 declaration, unexpectedly superior results are obtained with the particular combination recited in the amended claim 1, namely the combination of silver iodide content, the kind of adsorbable redox compound, and thermal development time, as detailed on pages 4-5 of the 37 C.F.R. § 1.132 declaration. The Examiner is wrongfully comparing the results to the combination of references (see page 6, lines 10-13 of the Office Action) as opposed to the single closest prior art reference.

It is noted that the experimental data employs a polyhalomethane compound (claim 1 contains the limitation of a polyhalomethane compound as represented by formula (H)). The 37 C.F.R. § 1.132 declaration submitted on November 14, 2006 inadvertently omitted one sentence, "It is impossible to obtain a proper characteristic curve without a polyhalomethane compound." This feature is seen as further evidence of the unexpected results of the present invention.

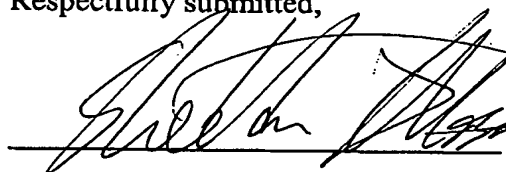
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III. Conclusion

In view of the foregoing amendments and remarks, it is submitted that all of the claims currently pending in the application are in condition for allowance. Early and favorable action is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sheldon J. Moss', is written over a horizontal line.

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